

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

BEFORE THE ADMINISTRATOR
SOUTH CAROLINA DEPARTMENT
OF CONSUMER AFFAIRS

DOCKET NO. 0119

THE SOUTH CAROLINA)
DEPARTMENT OF CONSUMER)
AFFAIRS,)
)
PETITIONER,)
)
vs.)
)
TRIANGLE CITY PAWN OFFICE, INC.,)
)
RESPONDENT.)
_____)

ORDER

This case began with the Petitioner's Notice of Hearing and Petition for the Respondent to show cause why a Cease and Desist Order should not be issued requiring Respondent to refrain from engaging in the business of lending money on the security of pledged goods, or engaging in the business of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time; or to show cause why Respondents' Certificate of Authority as a Pawnbroker should not be temporarily suspended or permanently revoked; and why an administrative fine not to exceed \$750.00 per violation should not be assessed against Respondent.

The Petition alleged that:

1. The Respondent failed to renew its Pawnbroker Certificate of Authority for the 2001-2002 filing year, pursuant to *S.C. Code Ann.*, § 40-39-120 (Supp. 2000).
2. The Respondent failed to maintain evidence of financial responsibility in the form of a bond or letter of credit, pursuant to *S.C. Code Ann.*, §40-39-50 (Supp. 2000) .
3. The Respondent carried on the business of pawn brokering within the state without obtaining a Certificate of Authority, pursuant to *S.C. Code Ann.*, § 40-39-20 (Supp. 2000).

The Petitioner was represented by its attorney Helen Fennell. The Respondent did not appear at the hearing.

STATEMENT OF CASE

Respondent Triangle City Pawn Office had been a licensed pawnbroker since April 1992, and had completed renewal requirements every year since then. Respondent, however failed to complete and submit a renewal application for the 2001-2002 filing year. In addition, Respondent allowed its bond, made to the benefit of the Department, to lapse on April 24, 2001.(Exhibit #2)

At the hearing Petitioner elicited testimony from its investigator Barbara Morris. Ms. Morris stated that she visited the Respondent at its West Columbia location on March 23, 2001, several weeks after a letter was sent to Respondent indicating its bond would expire on April 24th. (Exhibit # 3). There she spoke with a female employee Sheree McCray. Mr Hugh Bruce Floyd the owner of Triangle City Pawn was not present. Ms. McCray stated that Mr. Floyd would not be in until 4 or 5 o'clock that afternoon. Ms. Morris asked Ms. McCray to have him call Ms. Fennell when he came in that day. Ms. Morris again attempted to call Mr. Floyd late that afternoon or evening. Mr. Floyd was advised to call Ms. Fennell at the office as soon as possible regarding the bond expiration. Ms Morris stated that to her knowledge Mr. Floyd never returned the call or spoke with Ms. Fennell.

Ms. Morris stated that on August 17, 2001, she again visited Triangle City Pawn. She had been advised by staff that Respondent had been noticed for a hearing regarding its failure to renew its Pawnbroker Certificate of Authority by the July 1, 2001, deadline; and that Respondent had also not remitted a new bond to replace the lapsed bond.

At approximately 11:00 a.m. Ms. Morris and investigator Charles Heyward went to Triangle City Pawn. There she encountered two employees operating the business. Mr. Floyd was not present. One of the employees was Sheree McCray whom Ms. Morris had encountered on the previous visit. Ms. Morris informed Ms. McCray that they should not be taking pawn as their license had expired on July 1st. Ms. McCray informed her that Mr. Floyd would not be there until 2 or 3 o'clock that afternoon. Ms. Morris stated that neither employee seemed concerned or alarmed that the business' license had expired and they were in violation of the law by continuing to take pawn. Ms. Morris served the second hearing notice on Ms. McCray. Neither employee seemed concerned that they were

being served with an additional hearing notice regarding the Department's intent to access Triangle City's bond at another hearing on September 25, 2001.

Ms. Morris finally stated that to her knowledge Mr. Floyd had not responded either orally or in writing to either hearing notice or the visit by the investigators.

FINDINGS OF FACT

Based on evidence presented by staff at the hearing, I make the following findings of fact:

1.) Respondent was served with the Notice of Hearing by depositing same in the U.S. Mail on August 2, 2001. (Exhibit #1).

2.) Respondent was initially granted a Certificate of Authority in April 1992.

3.) Respondent has not renewed or otherwise attempted to apply for its Pawnbroker Certificate of Authority for the 2001-2002 filing period. (Testimony of Barbara Morris).

4.) Respondent has allowed its bond to lapse as of April 24, 2001, and has not remitted a new bond or other evidence of financial responsibility. (Exhibits #2 & #3 and testimony of Barbara Morris).

CONCLUSIONS OF LAW

Based on evidence presented by staff at the hearing, I make the following conclusions of law:

1.) The Department has jurisdiction over this matter pursuant to the South Carolina Pawnbrokers Act, *S.C. Code Ann.*, § 40-39-10, *et seq.* (Supp. 2000).

2.) Respondent was timely and properly served with the Notice of Hearing in this matter, pursuant to *S.C. Code Ann.* §1-23-320(a) (Supp. 2000).

3.) Respondent has continued to carry on the business of pawnbrokering without obtaining a Certificate of Authority, in violation of *S.C. Code Ann.*, § 40-39-20 (Supp. 2000). (Testimony of Barbara Morris).

4.) Respondent has failed to maintain evidence of financial responsibility, in violation of *S.C. Code Ann.*, §40-39-50 (Supp. 2000).

IT IS THEREFORE ORDERED, that Respondent:

- (1) Cease and Desist from engaging in the business of lending money on the security of pledged goods, or engaging in the business of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, unless and until such time as a Certificate of Authority has been issued;
- (2) Cease and Desist from engaging in the business of lending money on the security of pledged goods, or engaging in the business of purchasing tangible personal property on condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, unless and until such time as Respondent has remitted a bond or other evidence of financial responsibility acceptable to the Department; and
- (3) Pay an administrative fine in the amount of \$2,250, pursuant to *S.C. Code Ann.*, § 40-39-150 (Supp. 2000), for proven violations of the South Carolina Pawnbroker Act, as a predicate to any grant or renewal of a Certificate of Authority.

IT IS FURTHER ORDERED that:

- (1.) Upon service of this Order on Respondent, the Staff will also provide the West Columbia Police Department and Lexington County Sheriff's Department with copies of this Order; and
- (2.) Staff is to conduct a full compliance review to determine compliance with this Order, and whether Respondent continues to conduct a pawnbrokering business without a Certificate of Authority.

IT IS SO ORDERED.

s/ Philip S. Porter
Philip S. Porter, Administrator
South Carolina Department of
Consumer Affairs

September 17, 2001
Columbia, South Carolina